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WESTERN DISTRICT OF TEXAS

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DEPUTY

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF TEXAS

AUSTIN DIVISION

MARC ABRAMS, On Behalf of Himself and All Others Similarly Situated,	§	Civil Action No.
	§	CLASS ACTION
Plaintiff,	§	
	§	A06CA726 SS
vs.	§	
	§	
DELL INC., KEVIN B. ROLLINS and JAMES M. SCHNEIDER,	§	
	§	
	§	
Defendants.	§	
	§	
	§	DEMAND FOR JURY TRIAL

COMPLAINT FOR VIOLATION OF THE FEDERAL SECURITIES LAWS

NATURE OF THE ACTION

1. This is a securities fraud class action arising from conduct by Dell Inc. ("Dell" or the "Company") and certain of its top officers and directors between February 13, 2003 and September 8, 2006 (the "Class Period"), on behalf of all those who purchased Dell publicly traded securities during the Class Period (the "Class"). Plaintiff asserts that during the Class Period defendants made materially false and misleading statements in violation of §§10(b) and 20(a) of the Securities Exchange Act of 1934 ("1934 Act") and Securities and Exchange Commission ("SEC") Rule 10b-5 promulgated thereunder, which artificially inflated the price of Dell stock and damaged plaintiff and the Class thereby.

SUMMARY AND OVERVIEW OF THE ACTION

2. Dell is the world's largest computer maker and marketer, commanding 20% of the global market and 32% of the American market. The Company has no physical stores. Dell conducts all sales directly to consumers through telephone and online sales. Having achieved a 20% cost advantage over other personal computer ("PC") manufacturers and a 25% price advantage over other PC sellers by 2000, Dell had clearly established itself as the low-cost and low-price leader.

3. However, by January 2003 Dell was watching its competitive advantage dissipate as its lack of a physical sales channel became a liability and its ability to squeeze suppliers for price concessions disappeared. Dell's efficient supply chain, low cost of sales, and ability to hold just-in-time inventory were replaced by inflexible component costs and decreasing profit margins. As a result, by January 2003, Dell's cost advantage over other PC makers had crumbled to 10% and its price advantage had narrowed to just 5%.

4. Nonetheless, throughout the Class Period defendants concealed the true status of Dell's declining business model and began unsuccessful forays into the server, storage and printer markets to camouflage its declining market share and sales growth. By January 2004, defendants

were promising Dell would double its 2002 annual sales to $60 billion by January 2006 through a 15% annual increase in sales. Though Dell never even achieved a $60 billion year during the Class Period – defendants would raise that projection to $80 billion in mid-2005 and then to an astounding $100 billion in April 2006. The Company's stock price surged, trading above $42 per share by December 2004.

5. Meanwhile, defendants were causing Dell to report inflated financial results by misstating the Company's accrual and reserves on its balance sheet. In August 2005, the SEC began investigating the Company's revenue recognition and accounting practices, but Dell concealed the investigation from investors. However, unable to maintain the charade, defendants began carving down sales and profits projections and Dell began missing its own revenue, EPS and unit sales growth targets, causing significant declines in its stock price. In order to support the Company's stock price, defendants continued concealing the full extent of Dell's demise and promising a quick turn around.

6. On August 16, 2006, Dell announced it would be forced to recall over 4 million laptop batteries citing a high combustion risk. The recall is expected to cost $400 million. Dell had known about the battery problems for years.

7. Then, on August 17, 2006 Dell announced its fifth consecutive quarter of disappointing results – again significantly missing its own revenue and earnings per share ("EPS") projections. Dell's profits fell 51% from the same quarter one year earlier. Instead of the $.32 cents EPS projected, Dell reported a paltry $.22 cents EPS. The Company also finally revealed the SEC had begun investigating its revenue recognition practices and other accounting practices in August 2005. Announcing that in connection with its own internal accounting review "the company recently discovered information that raises potential issues relating to certain periods prior to fiscal 2006," defendants disclosed the Company's Audit Committee was undertaking a full review. Kevin Rollins

told analysts Dell had not disclosed the investigation for a year, claiming there "was really no reason to disclose it at that time." On this news the Company's stock declined 9% to a low of $20.65 when NASDAQ trading resumed on August 18, 2006.

8. Finally, on September 11, 2006 defendants disclosed the Company would not be able to file its interim financial report for its second quarter 2007 and that the U.S. Attorney's Office for the Southern District of New York had served Dell with a subpoena requesting documents concerning its accounting and financial reporting between 2002 and 2006. The Company issued a press release entitled "Dell Will Delay Filing of Form 10-Q," which stated in relevant part:

> Dell Inc. announced today that it is delaying the filing of the Form 10-Q for its fiscal second quarter ended August 4, 2006.
>
> ***The company said it is unable to file because of questions raised in connection with the previously announced informal investigation by the U.S. Securities and Exchange Commission (SEC) into certain accounting and financial reporting matters and the subsequently initiated independent investigation by the Audit Committee of its board of directors.*** The company said it plans to file the report as soon as possible.
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> ***The investigations have indicated the possibility of misstatements in prior period financial reports, including issues relating to accruals, reserves and other balance sheet items that may affect the company's previously reported financial results. The company is working with the Audit Committee and with the company's independent auditors to determine if any restatements of prior period financial reports will be necessary.*** "We have not yet reached any conclusion on materiality as to these issues," said Don Carty, chairman of the Audit Committee reviewing the matter. "We are continuing to investigate the matter fully," Carty added.
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> ***The SEC requests for information have been joined by a similar request from the United States Attorney for the Southern District of New York, who has subpoenaed documents related to the company's financial reporting from 2002 to the present.***
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> "We are fully cooperating with the investigations and working to resolve any and all issues raised in connection with those investigations as quickly as possible, and we will take any appropriate remedial or corrective actions to address any problems," Chairman Michael Dell said.
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> In light of these developments, the company has suspended its ongoing share repurchase program until further notice. In addition, given the delay in its 10-Q filing, the company has postponed the meeting with analysts that was to be held on Wednesday, September 13 and will reschedule it to a later date. Dell will be holding

its Technology Day on Tuesday, September 12, in New York showcasing its latest products and services.

9. Dell's stock price continued declining, with shares trading as low as $20.52 in intra-day trading on September 11, 2006, a decline of more than 50% from its Class Period high in December 2004.

10. The true facts, which were known by the defendants but concealed from the investing public during the Class Period, were as follows:

(a) The Company lacked effective internal controls in its financial reporting process, required to enable it to properly analyze and/or estimate Dell's future financial and operational performance;

(b) Dell was improperly recognizing revenue by recognizing revenue when it had not been earned and become realizable;

(c) Dell was losing market share in the PC market;

(d) Dell's component costs were not decreasing in line with its sales prices; and

(e) Dell's ability to diversify out of PC's and into areas such as networking, data storage, consumer electronics and printers was failing.

JURISDICTION AND VENUE

11. The claims asserted herein arise under and pursuant to §§10(b) and 20(a) of the 1934 Act [15 U.S.C. §§78j(b) and 78t(a)] and Rule 10b-5 promulgated thereunder by the SEC [17 C.F.R. §240.10b-5].

12. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§1331 and 1367 and §27 of the 1934 Act [15 U.S.C. §78aa].

13. Venue is proper pursuant to §27 of the 1934 Act and 28 U.S.C. §1391(b). Dell was headquartered in this District during the Class Period and many of the alleged false and misleading statements were distributed from this District.

THE PARTIES

14. Plaintiff Marc Abrams purchased Dell common stock as described in the attached certification and was damaged thereby.

15. Defendant Dell Inc. ("Dell") is the world's largest computer maker and marketer. Defendant Dell Inc. may be served at One Dell Way, Round Rock, Texas 78682.

16. Defendant Kevin B. Rollins ("Rollins") is CEO, President and a director of Dell. Rollins is responsible for Dell's day-to-day global operations and establishes Dell's strategic direction. Rollins joined Dell in April 1996 as Senior Vice President, Corporate Strategy, was named Senior Vice President, General Manager Americas in May 1996, and was named Vice Chairman in 1997. In 2001, Rollins' title was changed from Vice Chairman to President and Chief Operating Officer. He was named CEO of Dell in July 2004. In addition to his annual salary of $869 million (in FY 2006), Rollins received an incentive bonus of over $1.7 million in FY 2006, over $2 million in FY 2005, over $1.7 million in FY 2004, and over $2 million in FY 2003. Defendant Kevin B. Rollins may be served at One Dell Way, Round Rock, Texas 78682.

17. Defendant James M. Schneider ("Schneider") has served as Senior Vice President and CFO of Dell since 2000. In this role, Schneider is responsible for Dell's finance function for all business units worldwide, including the controller function, corporate planning, tax, treasury, investor relations, corporate development, real estate, risk management, and internal audit. Schneider joined Dell in 1996 as Vice President of Finance and Chief Accounting Officer, was named Senior Vice President in 1998, and CFO in 2000. In addition to his annual salary of over $566,000 (in FY 2005), Schneider received an incentive bonus of over $538,000 in FY 2006, over $822,00 in FY 2005, over $720,000 in FY 2004 and over $643,000 in FY 2003. Defendant James M. Schneider may be served at One Dell Way, Round Rock, Texas 78682.

18. Defendants Rollins and Schneider (collectively, the "Individual Defendants"), because of their positions with the Company and because of their access to material non-public information available to them but not to the public, knew that the adverse facts specified herein had not been disclosed to and were being concealed from the public and that the positive representations being made were then materially false and misleading. The Individual Defendants are liable for the false statements pleaded herein at ¶¶20-48.

FRAUDULENT SCHEME AND COURSE OF BUSINESS

19. Defendants are liable for: (i) making false statements; ***or*** (ii) failing to disclose adverse facts known to them about Dell. Defendants' fraudulent scheme and course of business that operated as a fraud or deceit on purchasers of Dell's common stock was a success, as it: (i) deceived the investing public regarding Dell's prospects and business; (ii) artificially inflated the price of Dell's publicly traded securities; (iii) permitted the Individual Defendants to obtain millions of dollars in cash bonuses; and (iv) caused plaintiff and other members of the Class to purchase Dell's publicly traded securities at inflated prices.

DEFENDANTS' FALSE AND MISLEADING STATEMENTS ISSUED DURING THE CLASS PERIOD

20. On February 13, 2003, defendants issued a press release entitled "Dell's Fourth-Quarter Shipments, Revenue, Operating Income Set Company Records; Q1 Guidance is $9.5 Billion in Sales, 23 Cents in Per-Share Earnings," which stated in relevant part:

> Dell ended its fiscal 2003 by posting best-ever quarterly product shipments, revenue and operating profit in the period ended Jan. 31.
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> ***The company's strength spanned all customer and product categories around the world. Dell gained almost three points of global market share from one year ago – more than three points in servers – and nearly five share points in the United States.***
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> * * *
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> "Customers always look for higher levels of value, particularly when economic conditions are weak," said Kevin Rollins, Dell's president and chief

operating officer. "And the Dell team is exceptional at continually increasing customer value."

"That's why we're profitably gaining market share, and consistently producing industry-leading operating results. This performance would be outstanding in any environment, and we have no intention to depart from a very successful strategy."

In the first quarter of fiscal 2004, Dell expects that approach to produce a year-over-year increase in company unit volumes of more than 25 percent, compared with anticipated industry growth at a low single-digit rate. Mr. Rollins said that should result in quarterly revenue of $9.5 billion, up 18 percent from last year, and per-share earnings of 23 cents, 35 percent higher.

21. The Company's stock gained 11% on very high volume based on the favorable outlook defendants provided – closing up at $25.77 on February 14, 2006 from a close of $23.25 on February 13, 2006.

22. On April 2, 2003, defendants issued a press release entitled "Dell Will Reaffirm First-Quarter Revenue, Earnings Guidance at Thursday Analyst Meeting; Company Expects 25-Percent Growth in Units, 18-Percent in Revenue, 35-Percent for EPS," which stated in relevant part:

Dell executives tomorrow will reiterate expectations for strong first-quarter results and ***describe the company's tremendous opportunity for growth in servers, storage systems and services in remarks to investors, analysts and reporters.***

* * *

Dell will reaffirm fiscal first-quarter guidance initially provided on Feb. 13: unit volumes up more than 25 percent from one year ago; revenue 18 percent higher, to $9.5 billion; and an increase in earnings per share of 35 percent, to 23 cents per share.

"We're seeing double-digit year-over-year revenue growth in all regional markets and customer segments," Kevin Rollins, Dell's president and chief operating officer, said before the meeting.

Mr. Rollins added Dell is confident about prospects for profitable growth, in large part because of expanding worldwide customer preference for powerful, but less expensive, standards-based enterprise computing. Nine of 10 servers sold industrywide use standard technology, including Microsoft Corp.'s Windows or the Linux operating system. He said customers are choosing standards-based servers for increasingly complex applications, and the same trend is now reaching into data-storage systems.

> ***"Customers continually want higher value, and they're getting flexibility, performance and reliability from standard technology," said Mr. Rollins. "They are embracing Dell as a trusted partner in the enterprise because we're uniquely able to understand their needs, and to efficiently innovate products and services to meet them."***
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> ***Mr. Rollins said the company's value proposition is well received around the world.*** In the most recent quarter, Dell product shipments in China, Japan, Germany and France, all strategically important markets, increased a combined 39 percent, compared with a rise of 2 percent for the rest of the industry.

23. On May 15, 2003, defendants issued a press release entitled "Dell's Q1 Revenue Up 18 Percent, Operating Income Up 37 Percent; Profits Outside Americas Nearly Double; Company Expects Continued Strong Shipment, Revenue, EPS Growth in Second Quarter," which stated in relevant part:

> ***Dell reported its best-ever fiscal first-quarter operating results, recording exceptional growth and profitability in all product and regional markets, and said second-quarter increases should also be strong.***
>
> Dell worldwide shipments in the quarter ended May 2 were up 29 percent from a year ago; volumes for the rest of the industry declined an average 1 percent. Growth was robust outside the United States – 40 percent in Asia-Pacific and Japan, and 29 percent in Europe, the Middle East and Africa, as operating income in both regions nearly doubled to record levels.
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> The company's 40-percent increase in server shipments was more than four times the average of other suppliers. Dell accounted for almost one-third of U.S. server volumes, and has led the category for more than two years. Revenue from external storage systems was up 65 percent.
>
> Dell's first-quarter net earnings totaled $598 million, or 23 cents per share, up from $457 million, or 17 cents per share, for the same period one year ago. Revenue was $9.5 billion, up 18 percent from $8.1 billion.
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> * * *
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> ***"The words and actions of customers are clear," said Michael S. Dell, Dell's chairman of the board and chief executive officer. "They're recognizing the performance and reliability of standards-based enterprise computing, and choosing such servers and storage products at an accelerating rate.***
>
> ***"Dell's unique ability is innovating, integrating and delivering technology with the best possible value, and our execution in those areas has never been better."***

> First-quarter operating profit as a percent of revenue was 8.5 percent, Dell's highest in two and one-half years. Operating expenses were a record low 9.8 percent of revenue, down from 9.9 percent a year ago.
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> Cash and investments at the end of the quarter totaled $10.3 billion, a new high, as Dell generated $812 million in cash from operations. Inventory in dollar terms was 7 percent lower than a year ago, even as company unit volumes rose 29 percent.
>
> ***For the fiscal second quarter, Dell expects its unit volumes to increase about 25 percent year-over-year, markedly ahead of predicted 3 percent growth for the rest of the industry.*** Dell anticipates a 15-percent increase in second-quarter revenue, to more than $9.7 billion, and earnings per share of 24 cents, a 26-percent increase.

24. On July 18, 2003, defendants issued a press release entitled "Customer Shift to Standard Enterprise Technology Favors Dell, Michael Dell Tells Investors at Annual Meeting; Company Shareholders Approve All Management Proposals, Re-Elect Three Directors," which stated in relevant part:

> ***Michael Dell today said more and more customers are making the company a trusted enterprise partner, especially for standards-based servers, storage systems and services.*** And shareholders embracing Dell's broader reach have approved a corporate name change-from Dell Computer Corp. to Dell Inc.
>
> Mr. Dell, chairman of the board and chief executive officer, reinforced in remarks at the company's annual meeting of shareholders here this morning that ***the competitive advantages of Dell's customer-focused, direct way of doing business are enabling it to expand and deepen its customer relationships.***
>
> "We've always done business differently from other companies," said Mr. Dell. ***"That allows us to better understand the needs of and create superior value for customers, and consistently produce leading operating results for investors and others who hold stakes in Dell."***
>
> ***He said the applicability of Dell's direct model and opportunities for the company are vast. While the company's United States business remains exceptionally strong, growth in other markets is also rapid.*** Product shipments last quarter were up 40 percent in Asia-Pacific and Japan, and 29 percent in Europe, the Middle East and Africa. Operating income in both regions nearly doubled, to record levels.
>
> In the enterprise, Dell's first-quarter server shipments rose 40 percent, more than four times the average of other suppliers, and the company accounted for almost one-third of U.S. server volume. External-storage revenue was up 65 percent.

"Customers are increasingly using clusters of standard servers in place of mainframe computers that rely on costly proprietary technology," Mr. Dell said. "Standards-based systems are now the better choice for most computing applications, and the trend to such powerful and reliable technology favors our company."

Dell's large and growing influence in the enterprise explains the company's name change, a management proposal approved by shareholders in proxy voting. Mr. Dell said the company's formal name is "catching up" with its evolution from supplying strictly computer hardware to providing a diverse range of technology products and services.

25. On August 14, 2003, defendants issued a press release entitled "Dell's Superior Execution Produces Record Shipments, Revenue and Operating Income In Q2; Q3 Guidance: Sales of $10.5 Billion, 26 Cents in EPS," which stated in relevant part:

Continued strong growth in servers and storage systems and in key global markets helped Dell achieve best-ever quarterly operating results in the period ended Aug. 1, and ***widen its overall global market-share lead.***

Total product shipments in the company's fiscal second-quarter 2004 were up 27 percent from one year ago, more than four times the growth for the rest of the industry. Dell server volumes rose at the same strong percentage rate. Company shipments increased 46 percent in Asia-Pacific and Japan and 31 percent in Europe, the Middle East and Africa. Without Dell, growth in those regions was 6 percent and 12 percent, respectively.

Second-quarter revenue was $9.8 billion, up 16 percent from the same period one year ago. Per-share earnings were 24 cents, an increase of 26 percent.

* * *

"We've again shown Dell's unique ability to profitably earn a larger share of business by focusing on standards-based technologies, managing costs and creating value for customers," said Kevin B. Rollins, Dell's president and chief operating officer. "We've done that regardless of the pace of industry demand and the appetite of others to generate sales, even at a loss."

Mr. Rollins said industry shipments in the third quarter would likely grow at a rate in the high single digits from one year ago, but that Dell expects its volumes to increase more than 25 percent. The company believes such growth would generate record company revenue of about $10.5 billion, a 15-percent increase from the prior year, and generate earnings per share of 26 cents, a 24-percent rise.

26. At an October 8, 2003, investors conference Rollins reported Dell was "on track to reach $60 billion in revenue" by 2007.

27. On November 13, 2003, defendants issued a press release entitled "Strong Growth in Servers, Storage Systems Leads Dell to Record Operating Results in Fiscal Third Quarter; Company Anticipates $11.5 Billion in Revenue, EPS of 28 Cents in Q4," which stated in relevant part:

> ***Dell again demonstrated its unique ability to simultaneously deliver high customer value, solid worldwide share gains and leading profitability, achieving record company operating results in the fiscal third quarter.***
>
> Dell's global server shipments increased 30 percent, almost twice the combined rate of other companies. Sales of external storage systems jumped 68 percent in the quarter. The company's total revenue from enterprise computing systems was up 32 percent.
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> For the three months ended Oct. 31, Dell's net revenue was $10.6 billion, 16-percent higher than in the year-ago quarter. Company revenue was more than 40-percent higher than two years ago; sales by the rest of the industry are essentially flat over the same period. Third-quarter Dell earnings were 26 cents per share, a 24-percent increase.
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> * * *
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> ***"Customers and investors get best value over time from companies like Dell that are growing and financially very healthy," said Michael Dell, chairman of the board and chief executive officer. "The market should insist on both, and it's a credit to our teams and a better way of doing business that we're consistently meeting those expectations."***
>
> ***Mr. Dell said the company anticipates its fourth-quarter shipments will be up more than 25 percent year-over-year, and again outpace the rest of the industry. Dell expects revenue of $11.5 billion, an increase of 18 percent, and earnings per share of 28 cents, up 22 percent.***

28. On April 7, 2004, defendants issued a press release entitled "Dell to Increase Q1 Revenue Guidance at Thursday Analysts Meeting; Repurchases Will Nearly Double to About $1.1 Billion," which stated in relevant part:

> ***Dell will raise guidance for first-quarter revenue, reiterate expectations for resulting earnings*** and detail a significant increase in near-term stock repurchases during a meeting with investors, analysts and reporters here Thursday.
>
> Dell executives will be speaking at the company's annual analyst meeting. The event starts at 8 a.m. (CDT) and will be webcast "live," with supporting material, at www.dell.com/investor.

The company now anticipates fiscal first-quarter sales to reach $11.4 billion, $200 million higher than guidance Dell provided on Feb. 12, and 20 percent better than the same quarter one year ago. Dell continues to expect earnings per share of 28 cents, up 22 percent year-over-year.

Kevin Rollins, Dell's president and chief operating officer, said the higher revenue is being driven particularly by growth in markets outside the United States.

"Customers around the world want powerful, reliable technology at great prices," said Mr. Rollins. "That's true in markets like China and Japan and France, and in the U.S., England and Canada, and why we're seeing rapid, profitable growth."

According to Mr. Rollins, there is strong demand across Dell's full range of products and services. The company's fastest growth has been in servers, storage systems, professional services and, more recently, the company's nascent printing and imaging business.

Dell also will tell analysts and others Thursday that it is increasing share buyback in the current quarter. The company now expects to spend about $1.1 billion to repurchase its common stock during the three-month period, up from a planned $600 million at the start of the quarter.

Mr. Rollins said the increase was the result of Dell's exceptionally strong operating results and cash generation, and among the ways the company can enhance shareholder value over time.

29. On May 13, 2004, defendants issued a press release entitled "Dell's Continued Strong Growth Outside U.S. Drives Company to Record Q1 Revenue; Dell Anticipates Second-Quarter Sales of $11.7 Billion, EPS 21 Percent Higher," which stated in relevant part:

Dell exceeded its own robust worldwide growth expectations while achieving record revenue during fiscal first-quarter 2005.

Product shipments for the period ended April 30 were up 25 percent from the same quarter a year ago; volumes for the rest of the industry increased 14 percent. Dell growth was 38 percent in Asia-Pacific and Japan, where the company's share ranked No. 2 for the first time. Shipments in Europe, the Middle East and Africa increased 37 percent.

First-quarter company revenue was up 21 percent to $11.5 billion, higher than Dell's previous guidance. The company has now met or exceeded guidance to investors for 13 straight quarters. Net earnings were $731 million, or 28 cents per share, 22 percent higher than a year ago. Dell's growth in both product shipments and net income has surpassed 20 percent for seven consecutive quarters.

* * *

"In our industry, only Dell simultaneously creates great customer value, rapid growth and solid profitability," said Kevin Rollins, the company's president and chief operating officer. "Others sometimes do one or two of those things. Our global team and our shareholders insist on all three."

First-quarter operating income was $966 million, up 19 percent from a year ago despite higher-than-expected costs for random-access memory late in the quarter. Operating expenses as a percent of revenue were 9.6 percent, matching a company low and better than 9.8 percent last year.

Dell generated $1.0 billion in cash from operations during the quarter. Cash and investments at the end of the period totaled $11.9 billion, as the company spent $1.1 billion to repurchase its common stock – up from a planned $600 million at the start of the quarter.

For the fiscal second quarter, Dell anticipates year-over-year growth in product shipments of 24 percent. Such volumes are expected to produce revenue of about $11.7 billion, up 20 percent, and per-share earnings of 29 cents, a 21-percent increase.

30. On July 16, 2004, defendants issued a press release entitled "Dell Raises Guidance for Second-Quarter EPS to 31 Cents; Operating Highlights Include Strong Enterprise Sales, Global Growth, SMB Demand," which stated in relevant part:

Dell is raising profit guidance for the company's fiscal second quarter.

Attendees to Dell's annual meeting of shareholders here this morning will learn that second-quarter per-share earnings are now expected to be 31 cents – up 29 percent from one year ago and two cents per share better than the company's initial guidance. Higher operating profitability is expected to produce EPS of 30 cents; the balance of the guidance increase is attributable to a further decline in the company's global tax rate.

Dell continues to anticipate second-quarter revenue of $11.7 billion. The company's second-quarter tax rate is now expected to be 24 percent, which brings the average rate for the first half of the year to 26 percent – consistent with current expectations for all of fiscal 2005, given continued strong growth in business outside the United States.

Kevin Rollins, who will become Dell's chief executive officer during today's meeting, said the company's industry-leading, profitable growth remains broadly based. Highlights in the current quarter include robust sales of enterprise systems and services, gains in markets outside the United States, and shipments to U.S. small- and medium-business customers.

> ***Preliminary estimates by industry analysts indicate Dell's overall global market share in the second quarter increased to more than 18 percent, up a full point from the same period a year ago. In Europe, the Middle East and Africa, Dell narrowed the quarterly gap between itself and the region's largest player to just 5.4 share points, down from 8 points a year ago.***
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> Dell's second quarter ends July 30. Full results for the period will be announced Aug. 12.

31. On August 12, 2004, defendants issued a press release entitled "Dell Second-Quarter Revenue Up 20 Percent, EPS 29 Percent Higher; ***Growth in Servers, Markets Outside U.S. is Exceptionally Strong***," which stated in relevant part:

> ***Dell showed its unique ability to both grow rapidly in key markets and achieve strong profitability again in the company's fiscal second-quarter 2005, which ended July 30.***
>
> Dell revenue was $11.7 billion, a company record and 20 percent higher than in the same quarter a year ago. Sales in Europe, the Middle East and Africa and in Asia-Pacific and Japan rose 30 and 29 percent, respectively. Combined revenue for enterprise systems, including servers and storage systems, accounted for 22 percent of overall sales, matching a company high.
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> Earnings per share were 31 cents, 29 percent higher and also a Dell record. Results were consistent with revised company guidance in mid-July, which included an increase in earnings expectations.
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> ***"We start with the marketplace advantage of a more efficient, more customer-focused way of doing business," said Kevin Rollins, Dell's chief executive officer. "And our global team is consistently disciplined in applying that business model.***
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> ***"Like our shareholders, our expectation is for volume and share growth along with solid profitability. Those objectives aren't mutually exclusive."***
>
> ***According to Mr. Rollins, Dell's third-quarter product shipments should be 21 percent higher than in the same year-ago period.*** Such growth is expected to produce quarterly revenue of about $12.5 billion, up 18 percent, and earnings per share of 33 cents, a 27-percent increase.

32. On November 11, 2004, defendants issued a press release entitled "Record Revenue, Earnings and Cash Flow in the Third Quarter Distinguish Dell's Best-Ever Operating Period;

Company Anticipates $13.5 Billion in Revenue, EPS of 36 Cents in Q4," which stated in relevant part:

> ***Record global product shipments, revenue, operating and net income, earnings per share and cash from operations made Dell's fiscal third-quarter 2005 the best reporting period in its history.***
>
> Dell revenue increased 18 percent from the same quarter a year ago to $12.5 billion, led by continued strong growth of 27 percent in Europe, Middle East and Africa and 25 percent in Asia-Pacific and Japan. Growth in the United States was led by a 20-percent increase in spending by business customers.
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> Earnings per share were 33 cents, up 27 percent, for the quarter ended Oct. 29.
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> ***"The record quarter is testament to the company's superb team executing a better business model," said Kevin Rollins, Dell chief executive officer. "An improving component cost environment further favors Dell, with customers and shareholders the primary beneficiaries.***
>
> ***"Dell's disciplined focus on profitable growth around the world and across businesses continues to differentiate us in the market. We've been doing that for years."***
>
> ***According to Mr. Rollins, Dell's fourth-quarter product shipments should be about 20 percent higher than in the same year-ago period.*** Such growth is expected to produce quarterly revenue of about $13.5 billion, up 17 percent, and earnings per share of 36 cents, a 24-percent increase.
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> In the third quarter, Dell's operating profit improved to 8.8 percent of revenue, the company's highest rate in four years. The company generated a record $1.8 billion in cash from operations, and total cash and investments rose to $12.4 billion. Dell spent $1.3 billion to repurchase 38 million shares of its common stock, bringing total shares repurchased year to date to 97 million – reducing weighted average shares outstanding by almost 3 percent for the year.

33. Dell's stock surged 8.6% on this positive news, and these results were even more significant considering that Dell's industry peers – Cisco, MicroSoft and Intel had all missed earnings targets.

34. Also in November 2004, Rollins reiterated that Dell would reach $60 billion in annual sales, this time saying Dell would reach the goal by January 2006.

35. On February 10, 2005, defendants issued a press release entitled "Record Revenue, Shipments, Operating Income and Cash Flow Highlight Dell's Fiscal Fourth Quarter; Revenue Up 17 Percent, Earnings Exceed Company Guidance," which stated in relevant part:

> ***Strong growth throughout Dell's diversified range of products and services in the fiscal fourth-quarter 2005 led to the company's best ever operating period. The company achieved quarterly records for revenue, unit shipments, operating income and cash flow from operations.***
>
> Sales increased 22 percent in Europe, the Middle East and Africa, and 21 percent in Asia-Pacific and Japan. Worldwide revenue growth from servers and storage systems accelerated from the last quarter, increasing 20 percent year-over-year. In the United States, sales to business customers grew 19 percent year-over-year.
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> Revenue for the quarter ended Jan. 28 was $13.5 billion, up 17 percent from a year ago. Pro-forma fourth-quarter net earnings were 37 cents per share, 28 percent higher than last year. That exceeded Dell's guidance by one cent, as continued strong profit growth in markets outside the United States reduced the company's operating tax rate.
>
> Dell's fourth-quarter reported earnings were $667 million, or 26 cents per share, which included a tax charge of 11 cents per share. The charge was taken in anticipation of repatriating foreign earnings at a one-time favorable tax rate under the U.S. American Jobs Creation Act (AJCA).
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> * * *
>
> Full-year pro-forma earnings were $1.29 per share, up 28 percent; fiscal-2005 reported earnings, including the AJCA-related charge, were $1.18 per share. Full-year revenue was $49.2 billion, up 19 percent.
>
> ***"The quarter represents continued record performance by our team around the world," said Kevin Rollins, Dell's chief executive officer. "No one has higher expectations for Dell over time than we do, and we're constantly driving for excellence on behalf of customers and shareholders."***
>
> ***Mr. Rollins said the company expects Dell first-quarter fiscal-2006 product shipments to increase 21 percent.*** The resulting company volumes should produce quarterly revenue of about $13.4 billion, up 16 percent from the prior year, and earnings per share of about 37 cents, up 32 percent.
>
> ***In the fourth quarter, Dell's operating margins improved to 8.8 percent, up from 8.5 percent a year ago.*** The company generated $1.8 billion in cash flow from operations, and total cash and investments at quarter-end was $14.1 billion, a company record.

36. On April 6, 2005, defendants issued a press release entitled "Dell to Reaffirm Guidance for Strong First-Quarter Revenue, Earnings Growth; Enterprise, Mobile Computing Remain Focus for Reaching ***$80-Billion Revenue Goal***," which stated in relevant part:

> Dell executives tomorrow will reiterate expectations for fiscal first-quarter 2006 revenue and earnings per share, ***as well as the company's plans to grow from $49 billion to $80 billion in annual sales.***
>
> The company's annual analyst meeting takes place here Thursday.
>
> Dell will reaffirm guidance initially provided Feb. 10 that it expects first-quarter revenue of about $13.4 billion, up 16 percent from the prior year, and earnings per share of 37 cents, up 32 percent. The company will also say it now intends to spend $2 billion to repurchase stock during the current quarter, more than double Dell's original expectation. Over the past four years, stock buyback has reduced weighted average shares outstanding by more than 9 percent.
>
> ***In remarks Thursday, Kevin Rollins, Dell's chief executive officer, will discuss the company's recently increased revenue goal of $80 billion, including how the company expects to reach that level within three to four years.***
>
> ***"Our growth and profitability are based on a disciplined approach to defining new product and service categories, accelerating growth in existing businesses, and extending the value we create for customers in all of those areas," Mr. Rollins said today.***
>
> ***Dell's growth plans emphasize four technology areas: network servers, storage systems, printing and imaging, and mobile computing, as well as the enhanced services that help customers get the most from those products.***
>
> ***In those product and service areas, as well as regions outside the United States, Dell expects to continue to grow at rates even faster than its strong overall average.***
>
> ***Company executives will tell analysts that they expect earnings per share and cash flow from operations to continue to outgrow sales en route to Dell's $80-billion revenue goal.***

37. On May 12, 2005, in advance of the Annual Meeting, defendants issued a press release entitled "Dell's First-Quarter Results Particularly Strong Outside U.S.; Company Forecasts Higher Revenue Growth in Second Quarter; Storage Products and Mobile Computing Driving Global Growth," which stated in relevant part:

Dell continued to grow significantly faster than the rest of the industry in all global regions, customer segments and product categories during its fiscal first-quarter 2006, and did so with strong profitability. The company also said it expects revenue growth to be higher in the second quarter.

Revenue growth outside of the United States and in strategic products and services highlighted the first quarter. Sales outside the U.S. increased 21 percent year-over-year and grew to 42 percent of the company's total revenue. Worldwide revenue from storage systems increased 49 percent and sales of mobility products grew 22 percent from a year ago.

For the quarter ended April 29, the company achieved total revenue of $13.4 billion, a 16-percent increase year-over-year, and net earnings of 37 cents per share, up 32 percent and a company record.

* * *

"Our greatest strength in the quarter was precisely in the products, services and regions in which we're most focused on growing," said Kevin Rollins, Dell's chief executive officer. "Customers worldwide are increasingly relying on us for their diversified information-technology requirements."

Mr. Rollins said the company expects second-quarter fiscal 2006 to produce a revenue increase of 16 to 18 percent, to $13.6 to $13.8 billion, and earnings per share of 37 to 39 cents.

In the first quarter, Dell's operating margin as a percent of revenue was 8.8 percent, up from 8.4 percent a year ago. The company generated $1.2 billion in cash flow from operations. Dell repurchased more than 50 million shares of its common stock during the quarter for $2 billion, a company record, and has reduced Dell's shares outstanding by more than 80 million over the past year.

38. Dell's stock surged 7% on the May 12th announcement.

39. Following the Annual Meeting on July 15, 2005, defendants issued a press release entitled "Dell Expanding With Global Opportunity, Kevin Rollins Tells Shareholders at Annual Meeting; Diversified Technology Portfolio Supports Revenue Growth to $80 Billion," which stated in relevant part:

Dell has vast potential for providing great value to more customers around the world, resulting in continued expansion, growth and profitability, CEO Kevin Rollins told shareholders today at the company's annual meeting.

"Even with our extraordinary success, we have barely begun to tap opportunities available to us," Mr. Rollins said. "Our revenue last year accounted

for only about 4 percent of global spending on information-technology products and services, so we have tremendous room to grow."

"We intend to realize that opportunity, to the benefit of customers and Dell shareholders."

Mr. Rollins said even as many technology companies have struggled over the past five years, Dell revenue has increased 58 percent. Earnings per share are up 98 percent during the same period. Still, he said the company's fiscal 2005 revenue of $49.2 billion – within $1.4 trillion in total technology sales – portends significant potential.

Mr. Rollins addressed Dell's goal to reach $80 billion in revenue in three to four years, which would represent unprecedented growth for a company its size. Continued growth in servers and storage systems; enhanced services; mobility products including notebook computers; imaging and printing; and televisions and monitors – particularly in regions outside the United States where Dell's presence is younger and its share smaller – account for company optimism about reaching such a scale.

Imaging and printing provides a related illustration. Mr. Rollins disclosed at the meeting that Dell has shipped 10 million printers in just more than the two years since the company introduced the first of its own line of printers. Dell now is No. 2 in the U.S. in both the inkjet and laser categories with a broad and growing range of printers, and a unique, easy service for customers to purchase replacement ink, toner and other supplies.

"We are focusing on opportunities with a wide-angle lens," Mr. Rollins said. "We continue to identify product and service categories where customers are paying too much for technology and services, even as we expand our capabilities in existing areas. Customer satisfaction remains essential to us and to our success."

Dell is expanding significantly around the world in order to best meet customer requirements. A new manufacturing plant in Winston-Salem, N.C. – the company's largest – will begin operations in September. The company is also increasing its manufacturing capacity in Xiamen, China. Dell is also adding a second building to and increasing employment at its customer-contact center in Oklahoma City and opened new centers in El Salvador and Chandigarh, India, earlier this year.

40. On August 11, 2005, defendants issued a press release entitled "Dell Generates Record EPS, ***Outpaces Industry Growth; Strong Growth in Services, Storage and International Markets***," which stated in relevant part:

Dell achieved record earnings in its fiscal 2006 second-quarter, as it exceeded industry shipment growth in a competitive pricing environment. Sales of storage systems, mobility products, enhanced services and software and peripherals were up strongly around the world.

Dell's second quarter, which ended July 29, was highlighted by industry-record shipments of 9.1 million computer systems – including 2.7 million mobility products – and company-record revenue of more than $2 billion from software and peripheral products, including printers and displays.

The company's second-quarter earnings were $1.02 billion, or 41 cents per share, up 32 percent from a year ago. Second-quarter EPS includes a three-cent revision to the previously recorded tax estimate for the repatriation of funds under the American Jobs Creation Act of 2004. Absent that benefit, EPS was a record 38 cents, up 23 percent. Dell revenue for the quarter was $13.4 billion, 15 percent higher than the same quarter last year.

* * *

"***Our teams performed well in a dynamic market. Our growth in Q2 was characterized by share increases in every region," said Kevin Rollins, Dell's chief executive officer.***

"While average selling prices were down more than we would have liked, ***we focused on balanced profitability and, in the process, delivered to our guidance for EPS."***

Dell's operating margin as a percent of revenue was 8.7 percent, up from 8.6 percent a year ago. The company generated more than $900 million in cash flow from operations. Dell spent $1.8 billion during the quarter to repurchase almost 47 million shares, and has now repurchased almost 280 million shares over the past 10 quarters.

Mr. Rollins said continued steady purchase rates by corporate customers, the seasonal impact of back-to-school buying in the consumer segment, and continued growth in markets outside of the United States will drive Dell's third-quarter business. The company expects Q3 revenue of $14.1 to $14.5 billion, and earnings per share of 39 to 41 cents. Dell plans to repurchase at least $1.2 billion in stock during the current fiscal quarter.

41. On November 10, 2005, defendants issued a press release entitled ***"Enterprise Product Sales and International Revenue Growth Highlight Dell's Third Quarter; Strong Revenue Increases Reported for Storage, Servers and Enhanced Services,"*** which continued to profess the strength of Dell's business model:

Continued successful application of Dell's unique direct business model and solid sales increases in enterprise products and services led the company to record revenue and units in fiscal third quarter 2006.

Dell had record shipments of 9.2 million units worldwide in the quarter. The quarter was led by a 36 percent increase in revenue from enhanced services to $1.2 billion, a 35 percent increase from storage and a 16 percent increase from servers.

Sales outside of the United States rose 20 percent from the same period a year ago and accounted for 40 percent of Dell's worldwide revenue in the quarter. Asia Pacific and Japan had particularly strong revenue growth of 20 percent year-over-year, led by rapid expansion in China with unit growth of 46 percent.

Company revenue for the period ended Oct. 28 was $13.9 billion, a company record and up 11 percent year-over-year. Dell's earnings per share was 39 cents on a non-GAAP basis, up 18 percent from a year ago. Reported GAAP third-quarter earnings was 25 cents per share, reflecting a previously announced one-time charge of $442 million. The charge consisted of the cost of servicing certain OptiPlex systems that include a vendor part that failed to perform to Dell's specifications, workforce realignment, product rationalizations and excess facilities.

* * *

"Our operating performance was again exceptional by any comparable measure," Kevin Rollins, Dell's chief executive officer, said. "However, we hold ourselves to higher standards."

As such, Mr. Rollins said, Dell has made recent moves that further streamline several parts of its business.

"We're always looking for better ways to improve the efficiencies of our business," he said. ***"Customers in every major market of the world are significantly and increasingly choosing to do business directly with Dell, so we are able to make these changes from a position of strength.*** The changes will reduce complexity and cost, improve customer value and satisfaction, and encourage strong profitable growth in all products, segments and regions."

Cash flow from operations for the quarter was $1.1 billion and $3.3 billion year-to-date. Dell ended the quarter with $12.3 billion in cash and investments. Dell spent $1.4 billion to repurchase 41 million shares during the third quarter and year-to-date has repurchased almost 140 million shares.

The company expects fourth quarter revenue of $14.6 to $15.0 billion and earnings per share of $0.40 to $0.42. The company plans to repurchase at least $1.7 billion in stock during the fourth quarter.

42. On February 16, 2006, defendants issued a press release entitled "Dell Delivers Strong Performance with Record Revenue and Earnings for Fourth Quarter; Growth Driven by Enterprise Business and Sales Outside the U.S., Both Up 21 Percent," which stated in relevant part:

Dell achieved record revenue of $15.2 billion and earnings of 43 cents per share driven by growth in enterprise products and services and sales outside the United States in the fiscal fourth-quarter 2006.

Dell's enterprise business in the quarter – including storage, servers, services and related software and peripherals – increased worldwide by 21 percent year-over-year. Storage revenue was up 41 percent year-over-year. Dell's business outside the U.S. increased in the quarter by 21 percent year-over-year, reflecting Dell's success in growth areas of Europe and Asia Pacific.

Dell's fourth quarter revenue of $15.2 billion was a 13 percent year-over-year increase. Earnings per share was 43 cents, a year-over-year increase of 65 percent and 16 percent on a Non-GAAP basis. Revenue and EPS exceeded expectations. Revenue was up due in part to a stronger than expected impact of the extra week of sales in the quarter. EPS reflected an adjustment to a lower tax rate for the year because of a larger mix of profits from outside the U.S.

Revenue for the fiscal year was $56 billion, a 14 percent increase. EPS for the fiscal year was $1.46, a 24 percent increase. Non-GAAP EPS, which excludes certain charges and an income tax benefit that occurred during fiscal 2006 and an income tax charge in the fourth quarter of fiscal 2005, increased 21 percent to $1.56.

* * *

"We drove a better balance across all price points of our products and greater operational efficiencies this quarter, and performed at the high level of execution we expect for ourselves," said Kevin Rollins, Dell's chief executive officer. "Our success in countries such as China and Germany shows the Dell direct business model is preferred by customers in all regions and provides us with a unique advantage and opportunity for continued growth."

Cash flow from operations was $1.6 billion for the quarter and $4.8 billion for the fiscal year. Dell ended the quarter with $11.7 billion in cash and investments. During the quarter, Dell spent $2 billion to repurchase 66 million shares of common stock, reducing weighted average shares outstanding by 7 percent year-over-year. For the full year, Dell spent $7.2 billion to repurchase almost 205 million shares, which was more than four times the number of options that were granted during the year.

The company expects first quarter fiscal year 2007 revenue of $14.2 to $14.6 billion and earnings per share of 39 cents to 41 cents, excluding an estimated three cents of stock compensation. Dell begins reporting earnings including stock compensation expense in the first quarter of fiscal 2007. The company plans to repurchase at least $1.2 billion in stock during the next quarter.

43. On April 5, 2006, Rollins told investors that ***based on then-current growth trends***, Dell's annual revenues could almost double to ***$100 billion*** on growth in Asia and Europe, combined

with growth in business lines including data storage and services, stating ***the "whole point is we are going to grow."***

44. On May 18, 2006, defendants issued a press release entitled "Dell's International and Enterprise Business Drives First Quarter Revenue Growth; ***Company Outlines Long-Term Growth Strategy Dell to End Year with Broadest and Highest Quality Product Line in History***," which stated in relevant part:

> Dell's expansion of business outside the United States and its sales of servers, storage and enhanced services drove revenue of $14.2 billion and earnings of 33 cents per share in the fiscal first-quarter 2007.
>
> Enhanced services revenue grew 28 percent year-over-year in the first quarter. Storage revenues increased 12 percent year-over-year. Shipments of Dell products were led by a 36 percent year-over-year increase in mobility units. Revenue outside the United States grew 12 percent and was 44 percent of Dell's overall revenue.
>
> Dell had operating income of $949 million, or 6.7 percent of revenue, in the quarter, which reflected investments in customer experience as well as pricing decisions the company believes will drive future growth. Cash flow from operations was $1.0 billion for the quarter and Dell ended the quarter with $11.1 billion in cash and investments. During the quarter, Dell spent $1.7 billion to repurchase 58 million shares of common stock.
>
> * * *
>
> "The competitive environment has been more intense than we had planned for or understood," said Kevin Rollins, Dell's chief executive officer. "Over the last year, we tried to achieve both growth and increased levels of profitability, which allowed our competitors to improve their relatively low levels of profitability and accelerate their growth. We have now taken action to reignite our growth and reassert the unique value of our Direct Model. We are re-establishing our price position, investing in customer sales, service and support, building our product and technology leadership and improving our cost structure and productivity. All of these actions will enable Dell to optimize the significant potential we have for global growth at a time when we expect our industry to undergo significant change and consolidation."
>
> Mr. Rollins said Dell is addressing the changes by reinvigorating its direct business model to provide greater value and service for customers. Specifically, Dell is focusing on three areas:

Customer Service

- The company is investing more than $100 million to regain its leadership position in customer experience.

- More than 2,000 new sales and support personnel have been hired in the U.S.; call centers have been added or expanded in Ottawa, Oklahoma City, Manila and Nashville.

- By the end of the fiscal year, Dell will have opened 14 new manufacturing, call center and design and development facilities over a two-year period.

Product Leadership

- Dell will end the year with the broadest and highest quality product line in its history, including a new generation of servers, and new storage products, desktop and notebook computers, and printers.

- In the enterprise, we will launch new ninth generation servers featuring Intel's Woodcrest microprocessors. Dell will also introduce new AMD Opteron processors in our multi-processor servers by the end of the year offering a great new technology to our customers at the high-end of our server line.

- On the client side, our focus on the XPS brand and acquisition of Alienware signals a renewed vigor around product design and quality for desktops and notebooks. In mobility, we will enhance our line this fall with Intel's new energy-efficient Merom processor. And, we will have Intel's Conroe in our desktops and workstations later this year.

Productivity and Cost Improvements

- Dell is accelerating plans to drive $3 billion of cost improvement in the year including structural material, component and transformational costs as well as improved warranty costs.

"We are confident in our ability to continue growing globally, particularly when we remember that 95 percent of the world's population lives outside the U.S. and we have less share of market outside the U.S. than some of our competitors," Mr. Rollins said. "The growth associated with these initiatives will not be accomplished in just one or two quarters. We are positioning the company for the next three to five years and beyond."

Dell is making key investments in its top countries, including China, India, Germany, Brazil and the U.S., to ensure that it can design, manufacture and provide service close to its customers for the long-term.

Dell ended its practice of providing specific quarterly guidance for revenue and earnings per share and said it would focus forward-looking statements on long-

term specific company and industry factors influencing performance. ***Dell does expect financial results for the second fiscal quarter of fiscal 2007 to be similar to its first quarter results.***

45. On August 14, 2006, Dell and the U.S. Consumer Product Safety Commission announced the agency's largest-ever electronics recall for lithium-ion batteries on notebooks sold by Dell between April 1, 2004, and July 18, 2006. Though the batteries were manufactured by Sony, the batteries were not combustible in Sony laptops suggesting the problem was with the Dell charging system and battery containment system. The recall is expected to cost between $200-$400 million.

46. After the close of trading on August 17, 2006, the Company announced its Second Quarter 2007 financial results, disclosing net income had fallen 51% and that the SEC had been investigating Dell's revenue recognition practices since August 2005. Dell's profits fell to $502 million in the second quarter from $1.02 billion in the same period a year earlier. The Company's press release stated in relevant part that:

> Dell reported revenue of $14.1 billion for the second quarter of fiscal year 2007, an increase of 5 percent year-over-year. Operating income was $605 million, or 4.3 percent of revenue, which includes $119 million of stock-based compensation. ***The company priced aggressively in a slower market resulting in operating income which was lower than its May expectations on similar revenue.*** As a result, EPS for the quarter finished at 22 cents.
>
> "While we are disappointed with the results for the quarter, we are taking the necessary actions to correct missteps and improve our results for the long term," said Kevin Rollins, Dell chief executive officer. "Key actions include accelerating cost initiatives, increasing investments in service and support, and better pricing management."
>
> * * *
>
> *Informal Investigation*
>
> ***In August 2005, Dell received notice from the U.S. Securities and Exchange Commission that it was conducting an informal investigation of the company. The notice stated that the investigation is not an indication that any violations of law have occurred. The SEC has requested information relating to revenue recognition and other accounting and financial reporting matters for certain past fiscal years, and Dell has been cooperating. In the course of***

> ***responding to the requests, the company recently discovered information that raises potential issues relating to certain periods prior to fiscal 2006. While the company does not believe that these issues have had or will have any material impact on its financial position or the reported results of operations for the relevant years, the company's audit committee, upon the recommendation of management, has initiated an independent investigation. Management is committed to addressing any questions, concerns or issues the SEC or the audit committee may have.***

47. In sharp contrast to Dell, Hewlett-Packard Co. on August 16th had posted third-quarter profit that beat expectations while raising its guidance for the upcoming period. On Dell's disappointing news the Company's stock price fell precipitously to $21.85 in after-market trading, then falling as low as $20.65 when trading resumed on August 18, 2006.

48. Finally, on September 11, 2006, Dell issued a press release before the market opened stating that Dell would delay filing its Form 10-Q for its second quarter 2007, and revealed that:

> ***The company said it is unable to file because of questions raised in connection with the previously announced informal investigation by the U.S. Securities and Exchange Commission (SEC) into certain accounting and financial reporting matters and the subsequently initiated independent investigation by the Audit Committee of its board of directors. The company said it plans to file the report as soon as possible.***
>
> ***The investigations have indicated the possibility of misstatements in prior period financial reports, including issues relating to accruals, reserves and other balance sheet items that may affect the company's previously reported financial results. The company is working with the Audit Committee and with the company's independent auditors to determine if any restatements of prior period financial reports will be necessary.*** "We have not yet reached any conclusion on materiality as to these issues," said Don Carty, chairman of the Audit Committee reviewing the matter. "We are continuing to investigate the matter fully," Carty added.
>
> The SEC requests for information have been joined by a similar request from the United States Attorney for the Southern District of New York, who has subpoenaed documents related to the company's financial reporting from 2002 to the present.
>
> "We are fully cooperating with the investigations and working to resolve any and all issues raised in connection with those investigations as quickly as possible, and we will take any appropriate remedial or corrective actions to address any problems," Chairman Michael Dell said.
>
> ***In light of these developments, the company has suspended its ongoing share repurchase program until further notice. In addition, given the delay in its***

> ***10-Q filing, the company has postponed the meeting with analysts that was to be held on Wednesday, September 13 and will reschedule it to a later date.*** Dell will be holding its Technology Day on Tuesday, September 12, in New York showcasing its latest products and services.

49. The true facts, which were known by the defendants but concealed from the investing public during the Class Period, were as follows:

(a) The Company lacked effective internal controls in its financial reporting process, required to enable it to properly analyze and/or estimate Dell's future financial and operational performance;

(b) Dell was improperly recognizing revenue by recognizing revenue when it had not been earned and become realizable;

(c) Dell was losing market share in the PC market;

(d) Dell's component costs were not decreasing in line with its sales prices; and

(e) Dell's ability to diversify out of PC's and into areas such as networking, data storage, consumer electronics, or printers was failing.

DELL'S FALSE FINANCIAL REPORTING DURING THE CLASS PERIOD

50. In order to inflate the price of Dell stock, defendants caused the Company to falsely report its results during the Class Period through improper revenue recognition on accruals and reserves.

51. The Company's financial results for the Class Period were included in Forms 10-K and 10-Q filed with the SEC. The results were also included in press releases disseminated to the public.

52. Dell has now admitted that the SEC and the U.S. Attorney's Office for the Southern District of New York are investigating its revenue recognition, and that its own internal review has disclosed some revenue recognition issues, such that the financial statements were not a fair

presentation of Dell's results and were presented in violation of Generally Accepted Accounting Principles ("GAAP") and SEC rules.

53. GAAP are those principles recognized by the accounting profession as the conventions, rules and procedures necessary to define accepted accounting practice at a particular time. SEC Regulation S-X (17 C.F.R. §210.4-01(a)(1)) states that financial statements filed with the SEC which are not prepared in compliance with GAAP are presumed to be misleading and inaccurate, despite footnote or other disclosure. Regulation S-X requires that interim financial statements must also comply with GAAP, with the exception that interim financial statements need not include disclosure which would be duplicative of disclosures accompanying annual financial statements. 17 C.F.R. §210.10-01(a). GAAP, as described by FASB Statement of Concepts No. 5 ¶¶83-84, requires that revenue be both earned and be realizable (collectible) prior to recognition.

54. Due to these accounting improprieties, the Company presented its financial results and statements in a manner which violated GAAP, including the following fundamental accounting principles:

(a) The principle that interim financial reporting should be based upon the same accounting principles and practices used to prepare annual financial statements was violated (APB No. 28, ¶10);

(b) The principle that financial reporting should provide information that is useful to present and potential investors and creditors and other users in making rational investment, credit and similar decisions was violated (FASB Statement of Concepts No. 1, ¶34);

(c) The principle that financial reporting should provide information about the economic resources of an enterprise, the claims to those resources, and effects of transactions, events and circumstances that change resources and claims to those resources was violated (FASB Statement of Concepts No. 1, ¶40);

(d) The principle that financial reporting should provide information about how management of an enterprise has discharged its stewardship responsibility to owners (stockholders) for the use of enterprise resources entrusted to it was violated. To the extent that management offers securities of the enterprise to the public, it voluntarily accepts wider responsibilities for accountability to prospective investors and to the public in general (FASB Statement of Concepts No. 1, ¶50);

(e) The principle that financial reporting should provide information about an enterprise's financial performance during a period was violated. Investors and creditors often use information about the past to help in assessing the prospects of an enterprise. Thus, although investment and credit decisions reflect investors' expectations about future enterprise performance, those expectations are commonly based at least partly on evaluations of past enterprise performance (FASB Statement of Concepts No. 1, ¶42);

(f) The principle that financial reporting should be reliable in that it represents what it purports to represent was violated. That information should be reliable as well as relevant is a notion that is central to accounting (FASB Statement of Concepts No. 2, ¶¶58-59);

(g) The principle of completeness, which means that nothing is left out of the information that may be necessary to insure that it validly represents underlying events and conditions was violated (FASB Statement of Concepts No. 2, ¶79); and

(h) The principle that conservatism be used as a prudent reaction to uncertainty to try to ensure that uncertainties and risks inherent in business situations are adequately considered was violated. The best way to avoid injury to investors is to try to ensure that what is reported represents what it purports to represent (FASB Statement of Concepts No. 2, ¶¶95, 97).

55. Further, the undisclosed adverse information concealed by defendants during the Class Period is the type of information which, because of SEC regulations, regulations of the

national stock exchanges and customary business practice, is expected by investors and securities analysts to be disclosed and is known by corporate officials and their legal and financial advisors to be the type of information which is expected to be and must be disclosed.

LOSS CAUSATION/ECONOMIC LOSS

56. By misstating the true status of the Company's business metrics and financial results, the defendants presented a misleading picture of Dell's financial status. These misstatements and claims of future profitability caused and maintained the artificial inflation in Dell's stock price throughout the Class Period and until the truth was revealed to the market.

57. Defendants' false and misleading statements had the intended effect and caused Dell's publicly traded securities to trade at artificially inflated levels throughout the Class Period, reaching as high as $42 per share in December 2004.

58. As a direct result of defendants' admissions and the public revelations regarding the truth about Dell's actual business prospects going forward, Dell's stock price traded below $21 on September 11, 2006, a drop of more than $21 per share from its Class Period high. This drop removed some of the inflation from Dell's stock price, causing real economic loss to investors who had purchased the stock during the Class Period.

COUNT I

For Violation of §10(b) of the 1934 Act and Rule 10b-5
Against All Defendants

59. Plaintiff incorporates ¶¶1-63 by reference.

60. During the Class Period, defendants disseminated or approved the false statements specified above, which they knew or deliberately disregarded were misleading in that they contained misrepresentations and failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

61. Defendants violated §10(b) of the 1934 Act and Rule 10b-5 in that they:

(a) employed devices, schemes and artifices to defraud;

(b) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(c) engaged in acts, practices and a course of business that operated as a fraud or deceit upon plaintiff and others similarly situated in connection with their purchases of Dell publicly traded securities during the Class Period.

62. Plaintiff and the Class have suffered damages in that, in reliance on the integrity of the market, they paid artificially inflated prices for Dell publicly traded securities. Plaintiff and the Class would not have purchased Dell publicly traded securities at the prices they paid, or at all, if they had been aware that the market prices had been artificially and falsely inflated by defendants' misleading statements.

63. As a direct and proximate result of these defendants' wrongful conduct, plaintiff and the other members of the Class suffered damages in connection with their purchases of Dell publicly traded securities during the Class Period.

COUNT II

For Violation of §20(a) of the 1934 Act Against All Defendants

64. Plaintiff incorporates ¶¶1-58 by reference.

65. Defendant Dell controlled the Individual Defendants and all of its employees. The Individual Defendants control Dell. By reason of such conduct, each defendant is liable pursuant to §20(a) of the 1934 Act.

CLASS ACTION ALLEGATIONS

66. Plaintiff brings this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of all persons who purchased Dell publicly traded securities on the open market during the Class Period (the "Class"). Excluded from the Class are defendants.

67. The members of the Class are so numerous that joinder of all members is impracticable. The disposition of their claims in a class action will provide substantial benefits to the parties and the Court. Dell has more than 2.2 billion shares of stock outstanding, owned by hundreds of thousands of persons.

68. There is a well-defined community of interest in the questions of law and fact involved in this case. Questions of law and fact common to the members of the Class which predominate over questions which may affect individual Class members include:

(a) whether the 1934 Act was violated by defendants;

(b) whether defendants omitted and/or misrepresented material facts;

(c) whether defendants' statements omitted material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading;

(d) whether defendants knew or deliberately disregarded that their statements were false and misleading;

(e) whether the price of Dell's publicly traded securities was artificially inflated; and

(f) the extent of damage sustained by Class members and the appropriate measure of damages.

69. Plaintiff's claims are typical of those of the Class because plaintiff and the Class sustained damages from defendants' wrongful conduct.

70. Plaintiff will adequately protect the interests of the Class and has retained counsel who are experienced in class action securities litigation. Plaintiff has no interests which conflict with those of the Class.

71. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment as follows:

A. Declaring this action to be a proper class action pursuant to Fed. R. Civ. P. 23;

B. Awarding plaintiff and the members of the Class damages, interest and costs;

C. Awarding plaintiff reasonable costs and attorneys' fees; and

D. Awarding such equitable/injunctive or other relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

DATED: September 13, 2006

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Attorneys for Plaintiff

S:\CptDraft\Securities\Cpt Dell 1.doc

CERTIFICATION OF NAMED PLAINTIFF
PURSUANT TO FEDERAL SECURITIES LAWS

MARC ABRAMS ("Plaintiff") declares:

1. Plaintiff has reviewed a complaint and authorized its filing.

2. Plaintiff did not acquire the security that is the subject of this action at the direction of plaintiff's counsel or in order to participate in this private action or any other litigation under the federal securities laws.

3. Plaintiff is willing to serve as a representative party on behalf of the class, including providing testimony at deposition and trial, if necessary.

4. Plaintiff has made the following transaction(s) during the Class Period in the securities that are the subject of this action:

Acquisitions:

Date Acquired	Number of Shares Acquired	Acquisition Price Per Share
10/30/03	80	36.63
12/17/03	110	33.24

Sales:

Date Sold	Number of Shares Sold	Selling Price Per Share

5. Plaintiff has not sought to serve or served as a representative party for a class in an action filed under the federal securities laws except as detailed below during the three years prior to the date of this Certification:

6. The Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond the Plaintiff's pro rata share of any recovery,

except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the court.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 11 day of September, 2006.

MARC ABRAMS

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Marc Abrams, On Behalf of Himself and All Others Similarly Situated

(b) County of Residence of First Listed Plaintiff ______
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Joe Kendall, Provost Umphrey Law Firm, LLP - Telephone 214-744-3000
3232 McKinney Avenue, Suite 700, Dallas, Texas 75204

RECEIVED
SEP 13 2006
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY CLERK

DEFENDANTS

Dell Inc., Kevin B. Rollins, and James M. Schneider

County of Residence of First Listed Defendant Williamson, Texas
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

A06CA726 SS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☒ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):

Brief description of cause:
Violation of the Federal Securities Laws

VII. REQUESTED IN COMPLAINT: ☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND $** CHECK YES only if demanded in complaint: **JURY DEMAND:** ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE ______ DOCKET NUMBER ______

DATE 9/13/2006 SIGNATURE OF ATTORNEY OF RECORD Joe Kendall

FOR OFFICE USE ONLY

RECEIPT # 38722 AMOUNT ______ APPLYING IFP ______ JUDGE ______ MAG. JUDGE ______

ORIGINAL 387262

AO82
(Rev. 4/90)

RECEIPT FOR PAYMENT
UNITED STATES DISTRICT COURT
for the
WESTERN DISTRICT OF TEXAS
at Austin

RECEIVED FROM Prouost Umphrey
3232 McKinney #700
Dallas Tx 75204

Fund		ACCOUNT	AMOUNT
6855XX	Deposit Funds	086900	60 00
604700	Registry Funds	510000	190 00
	General and Special Funds	086400	100 00
508800	Immigration Fees	TOTAL	350.00
085000	Attorney Admission Fees		
086900	Filing Fees		
322340	Sale of Publications		
322350	Copy Fees		
322360	Miscellaneous Fees		
143500	Interest		
322380	Recoveries of Court Costs		
322386	Restitution to U.S. Government		
121000	Conscience Fund		
129900	Gifts		
504100	Crime Victims Fund		
613300	Unclaimed Monies		
510000	Civil Filing Fee (½)		
510100	Registry Fee		

Case Number or Other Reference
1:06-CV-726

New case

Abrams v. Dell

$Checks and drafts are accepted subject to collection and full credit will only be given when the check or draft has been accepted by the financial institution on which it was drawn. 1084

DATE	Cash	Check	M.O.	Credit
9-13-2006		X		

DEPUTY CLERK [signature] c